



THE CITY OF SAN DIEGO
MANAGER'S REPORT

DATE ISSUED: May 31, 2000 REPORT NO. 00-109

ATTENTION: Honorable Mayor and City Council
Docket of June 5, 2000

SUBJECT: Grant of Cable Television Franchise Agreement with
Western Integrated Networks of California, Operating LLC

REFERENCE: City Manager's Report 00-25 February 2, 2000

SUMMARY

Issue - Should the City Council approve a City-wide cable television franchise agreement with Western Integrated Networks of California, Operating LLC.

Manager's Recommendation - Approve the cable television franchise agreement.

Other Recommendations - None.

Fiscal Impact - Due to an increase in the franchise fee percentage for right-of-way use, the City will realize a 40% increase in cable television franchise fee revenues on subscribers that switch from the existing incumbent cable television companies to the service provided by Western Integrated Networks. Overall cable television subscribership may also increase with the advent of competitive systems marketing to customers. Technology grant provision of this new franchise provides for a cash grant of \$500,000 to the City.

BACKGROUND

The City of San Diego currently maintains cable television franchise agreements with Cox Communications and Time Warner Cable, granting each provider the ability to utilize City streets, alleyways and other public right-of-way property for providing cable television services. The City's cable television franchise with Cox Communications was adopted in 1979 for a 30 year term and establishes a service area consisting of all City areas South of the San Diego River. The City's franchise with Time Warner Cable was adopted in 1980 under identical terms to serve all areas North of the San Diego River. The City's existing cable television franchises are non-exclusive and allow for both incumbent cable companies to compete against each other and allow for the granting of additional competitive franchises.

The City Council's Policy on Telecommunications (Policy #900-13) promotes a competitive marketplace and consumer choice of service providers with regard to cable television and other broadband communications services. Since 1993, the City has been seeking competitive entrants to provide cable television services to residents through an open Request for Proposal. The City's policies and actions to promote competitive cable television service are also consistent with current state law and the Federal Telecommunications Act of 1996.

On February 2, 2000, the City received an application from Western Integrated Networks of California ("WIN") to construct and operate a competitive cable television system in all areas of the City. WIN proposes to develop and construct an advanced technology network that will have the capability of providing a number of "bundled" broadband or high capacity communications services. These services include the following:

- High-speed Internet Services
- Expanded Analog Video
- Premium Channels
- Video on Demand
- Local and Long Distance Telephone Service
- Basic -Lifeline Video Service
- Digital Video Service
- Pay-Per-View
- Digital Music

WIN's system construction architecture will consist namely of fiber-optic cable network technologies and will be installed in a manner similar to existing communications companies maintaining all construction requirements and environmental procedures as mandated by the City. The proposed WIN primary network processing and customer service facility will be located in the City of San Diego and will consist of a 20,000-30,000 square foot facility employing approximately 300 persons when fully completed and operational.

WIN has been awarded cable television franchises in the cities of Sacramento, Austin, and San Antonio. The company has pending applications in the cities of Houston, Dallas, Portland and Seattle. It is WIN's goal to make San Diego its fourth jurisdiction to receive a competitive cable television franchise. Funding for the franchising process is being provided by six major

investment firms in the amount of \$500 million. Design and construction financing will follow for each community as these franchises are awarded.

The City's Cable Television Office of the Department of Information Technology and Communications worked in conjunction with the City Attorney, the City Auditor, and the Departments of Planning/Development Review, Real Estate Assets, and Engineering to review the technical, financial and legal qualifications of Western Integrated Networks to be a cable service provider in the City of San Diego. The City's review also included consideration of the cable television related needs of the community including customer service and community access channels.

DISCUSSION

Following consideration and review of WIN's application for a cable television franchise, staff negotiated a competitive cable television franchise that incorporates new regulations of state and federal law, and addresses the cable television related community needs that have progressed since the granting of the City's current cable television franchises 20 years ago. Terms of the proposed franchise agreement between the City and WIN include the following:

- Term of 15 years
- Right-of-Way Usage Fee or "franchise fee" of 5% on all revenues with the exception of telephony services, and those services where such fees are prohibited by law
- 5 year build-out plan Citywide
- Comprehensive customer service standards
- 9 dedicated access channels for government, educational, and public use
- Video and high-speed Internet service to all City facilities, leased City facilities, and public schools at no cost
- Institutional video/data service network connecting all City libraries
- Technology Grant of \$500,000
- Security fund and liquidated damages for any company non-compliance

WIN's construction plan mandates a five year build-out that will be City-wide. This project will be subject to full CEQA review by the City prior to the commencement of construction. The environmental impact review, therefore, is not under consideration at this time.

The WIN franchise agreement is the first competitive cable television franchise agreement that the City has considered. This proposed franchise agreement establishes terms and conditions found in other contemporary cable television franchise agreements and is consistent with state and federal law. This agreement also furthers the City's policy to promote competition in the video provider marketplace.

ALTERNATIVE

Do not approve the granting of a competitive cable television franchise with Western Integrated Networks and return the issue to the City Manager.

Respectfully submitted,

Submitted by: RICHARD E. WILKEN
Information Technology and
Communications Director

Approved: DIANAH NEFF
Deputy City Manager
Chief Information Officer

WILKEN/MSJ

ATTACHMENT

Note: Due to the size of the attachment, only a limited distribution was made.
A copy is available for review in the Office of the City Clerk.